

# SLAUGHTER AND MAY

## Our data protection and privacy practice

### Our pragmatic and commercial approach

The approach we take to data protection and privacy differentiates us from our competitors. We do not view regulatory compliance as a legal ‘box-ticking’ exercise. We understand that, whilst data protection and privacy laws exist to protect individuals’ rights, they are not intended to prevent legitimate commercial activity or to hamper business innovation. This shapes our pragmatic approach.

### Our “hub and spoke” model

We also differ from many other firms as we have adopted a ‘hub and spoke’ data advisory model. Rather than having a narrow data protection compliance advisory team, we recognise that data protection can be a factor in any issue. We therefore train and support data protection specialists in all our practice areas, including corporate, commercial, dispute resolution, technology, employment and strategic sourcing. The “hub” provides a centre of expertise with all practice areas being supported by the “hub” partners, Rebecca Cousin, Rob Sumroy, Richard Jeens, Richard de Carle and Duncan Blaikie. This enables us to provide our pragmatic advice, swiftly and efficiently and tailored to each type of engagement.

### Broad range of work

We have a wealth of experience in advising on all aspects of data protection compliance including data processing arrangements, the design and implementation of complex multi-jurisdictional data strategies, challenges in global investigations and issues in M&A transactions.

We also regularly advise on the impact of the forthcoming EU General Data Protection Regulation (GDPR), international data transfers and, more recently, the possible consequences of Brexit on the UK’s data protection regime.

### International approach

Data flows seamlessly across borders with the laws of many different jurisdictions coming in to play. We assess which regimes apply and provide cross-jurisdictional data protection advice ensuring that the proposed strategy reflects all applicable data protection regimes. We achieve this through working closely with the market leading law firm for data protection in each relevant jurisdiction and producing one, consolidated piece of advice.

# Our data protection experience /

We have highlighted examples of our experience.

## Global compliance strategies

We are experienced in advising international companies on general data protection and privacy compliance. For example, we advised:

- an information provider for the alternative assets industry in a review of its global data protection compliance; and
- a number of providers of life and general insurance on novel sets of data sharing and processing agreements to be implemented throughout their respective global groups.

## International data transfers

We understand the importance of data being freely portable between jurisdictions, whether that be intra-group or to third parties. We have experience in working with companies to develop and implement the most appropriate structure for their business, tailored to their needs. For instance, we advised:

- a global mining conglomerate on its global processing requirements, including implementing data processing agreements in 15 territories across four continents; and
- an online retailer on data protection compliant arrangements to enable it to maintain the transfer of data to the US following the end of the US Safe Harbour regime.

## Monetisation of data

Data is now understood to be a valuable commodity in its own right. We advise clients on the data protection arrangements required to ensure that their strategies to monetise that data are compliant with relevant legislation, including:

- advising a large retailer on the leveraging of big data as part of its range of innovative digital and technology-related projects; and
- providing in-depth analysis to a major UK payment systems company on the data protection implications of a significant innovative data sharing project involving the use of data analytics. This required us to apply compliance advice and guidance to cutting-edge technologies and advanced data exploitation techniques. We sought to introduce a 'privacy by design' approach to the programme and to develop design and operational principles based on the core principles of data privacy.

**The speed of service is fantastic. Internationally they provide a smooth conduit of local lawyers. We have every confidence in the advice given wherever the jurisdiction. They act like an extension of the in-house team.**

Chambers UK, 2016

## Data breaches

Sometimes, despite the best of intentions, data breaches do occur, particularly given the increased risk of cyber attacks. We have experience handling these incidents, including advising:

- a Government Minister on urgent cyber and data breach issues; and
- an education sector client on both pre and post breach issues. This included incident response actions, supporting its decision as to whether to notify the relevant regulators and individuals and liaising with law enforcement agencies in relation to possible prosecutions. Following the breach, we suggested changes required to its processes and procedures to help minimise the risk of reoccurrence.

## Disputes and global investigations

In the world of dispute resolution and global investigations, data protection and privacy issues are an everyday occurrence. We are adept at using the law tactically to our client's advantage, or navigating the restrictions that are imposed and challenges that are thrown up. Examples of this include:

- advising a number of financial institutions on the data protection and privacy issues in the context of investigations by foreign regulators; and
- advising in relation to customer and employee subject access requests linked to a dispute.

## Commercial and corporate transactions

Given the prevalence of personal data, whether that be employee or customer data, we find that data protection issues arise in many corporate and commercial transactions and our lawyers are skilled at spotting and addressing any such issues. This may be in the context of a particularly data heavy business or simply because of the quantity and location of employee data. Recent examples include advising:

- a potential purchaser on the acquisition of a consumer data analytics business, including assessing its ability to fully exploit the data while remaining compliant with all applicable data protection regime; and
- a client on a novel identity assurance scheme which included an in-depth analysis of the data protection requirements applicable to complex data sharing arrangements across a number of datasets, databases and participants.

## UK contacts /



**Rob Sumroy**  
+44 (0)20 7090 4032  
rob.sumroy@slaughterandmay.com



**Rebecca Cousin**  
+44 (0)20 7090 3049  
rebecca.cousin@slaughterandmay.com



**Richard Jeens**  
+44 (0)20 7090 5281  
richard.jeens@slaughterandmay.com



**Richard de Carle**  
+44 (0)20 7090 3047  
richard.decarle@slaughterandmay.com



**Duncan Blaikie**  
+44 (0)20 7090 4275  
duncan.blaikie@slaughterandmay.com

## International contacts /



**Jordan Ellison (Brussels)**  
+32 (0) 2 737 9414  
jordan.ellison@slaughterandmay.com



**Peter Lake (Hong Kong)**  
+852 2901 7235  
peter.lake@slaughterandmay.com

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